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UNCLAS SECTION 01 OF 03 KAMPALA 000587

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TAGS: [PHUM](#) [PREL](#) [PGOV](#) [UG](#) [SU](#) [CG](#) [CT](#)
SUBJECT: NORTHERN UGANDA: HELPING KONY UNDERSTAND JUSTICE
ISSUES

REF: A. KAMPALA 555
[1](#)B. KAMPALA 483
[1](#)C. KHARTOUM 643

KAMPALA 00000587 001.2 OF 003

[1](#)1. (SBU) Summary: The Ugandan Government, Lord's Resistance Army (LRA) delegation members, lawyers, and judicial officials will meet in Kampala from May 6-8 to discuss the legal options for LRA leader Joseph Kony. The LRA delegation says it wants to understand the national legal framework for a trial if Kony signed the agreement. Armed with the same information, the LRA delegation, GOU officials, and northern traditional and religious leaders would travel to Rikwangba to meet Kony on May 10. Information from ConGen Juba indicates that Government of Southern Sudan mediator, Riek Machar, may have other plans for a meeting with Kony. GOU negotiators will reach out to Machar to clarify his intentions. Uganda's Principal Judge, James Ogoola, who may also travel to Rikwangba. Ogoola outlined for poloffs the plans for a court to try Kony, and the serious problems facing the reestablishment of the judiciary. End Summary.

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MAY MEETING WITH KONY
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[1](#)2. (SBU) LRA delegation members James Obita and Santa Okot reiterated their views on the upcoming meeting with the GOU and Kony about the justice and accountability options in the agreement (Ref A). Obita said that Kony requested the meeting to discuss the accountability options in the peace agreement. The attendees would be Kony, the current LRA team, GOU negotiators, lawyers, judges, and northern traditional and religious leaders. Obita said the Government of Southern Sudan mediator Riek Machar had not returned any of his calls, and has yet to answer his request for airtime to enable the LRA delegation to maintain contact with Kony. Obita wanted to avoid a large gathering such as the April 10 signing ceremony which scared off the LRA leader, who allegedly believed it was a trap where he would be assassinated or arrested (Ref B). Obita was concerned Machar might hijack the meeting.

[1](#)3. (SBU) (Note: Per Ref C, Machar's reference to the refusal of the U.S. Embassy in Kampala to provide a pay off of USD 400,000 stems from allegations made by former LRA delegation leader David Matsanga. On March 31, LRA delegation member Santo Okot approached USAID with a proposal for USD 400,000 that would pay for the transport of northern officials to Rikwangba for the April 10 signing ceremony. Mission personnel advised Okot that there were no funds for her proposal. Matsanga subsequently told P/E Chief on April 12, after he was sacked, that Okot had sought the funds to pay

Kony to sign the Final Peace Agreement. Matsanga claimed that Kony had demanded between USD 400,000 and 1 million to sign and that the Acholi members of the delegation were seeking the money from donors. We suspect that Matsanga's accusations could be another attempt to cover for his lack of contact with Kony and search for other scapegoats for Kony's failure to show up on April 10. End Note.)

¶4. (SBU) Okot said that the LRA delegation could not alone explain the legal framework for Kony. She said the LRA leader was asking questions about the types of charges that could be brought and what were the sentences. The LRA requested the meeting with the Government to better understand where the preparations stood on the Special Division of the High Court and amending Ugandan laws to satisfy the International Criminal Court (ICC). She reiterated that the meeting with Kony would cover the legal and traditional accountability mechanisms in the agreement. The meeting would not be a signing ceremony, according to Okot, and she reminded P/E Chief that Kony feared being arrested.

¶5. (SBU) Government negotiators also share the LRA delegates' views on the purpose of the meetings in May. Minister for International Relations Henry Okello Oryem told P/E Chief on April 28 that the GOU felt it was important for Kony to have an opportunity to have his questions answered by experts. The initial meeting between the LRA delegation, GOU negotiators, legal experts, and judges would prepare both delegations for the meeting so they would hear the same information. GOU officials, such as lead negotiator Ruhakana Rugunda, Oryem, GOU lawyers, and judges, would accompany the LRA and northern traditional and religious leaders to Rikwangba on May 10. After receiving Ref C, in which Machar stated that he wanted international observers to accompany him to Rikwangba on May 10, P/E Chief confirmed with Rugunda and Oryem that the meeting was to be exclusive to the LRA,

KAMPALA 00000587 002.2 OF 003

GOU, and northern leaders. Oryem said that he or Rugunda would contact Machar, who Oryem said may be trying to turn the meeting into another signing ceremony, which was not what Kony wanted.

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LEGAL FRAMEWORK PREPARATIONS
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¶6. (SBU) On April 26, P/E Chief met with Principal Judge James Ogoola, who would be responsible for setting up the High Court's Special Division. Ogoola stated that he did not believe that Kony would sign the Final Peace Agreement. He said that preparations for the creation of a Special Division have remained in the planning stages because the GOU saw no signs that Kony would submit himself to a legal trial. Nonetheless, Ogoola would be among the High Court judges who would meet with the LRA delegation and Government negotiators and lawyers from May 6-8 to discuss Kony's legal options and the mechanics of a trial. LRA delegation members want Ogoola to accompany them to Rikwangba.

¶7. (SBU) Kony's trial would be slowed by the lack of a comprehensive law under which to try him, according to Ogoola. Uganda does not have war crimes as a chargeable offense and would need to create new laws, but these could not be made retroactive. The best way forward would be for Uganda to ratify the Rome Statute and then argue that the new laws would domesticate it. This required close cooperation between the Ministry of Justice and Parliament. Otherwise, Kony could be tried for murder, rape, and kidnapping under existing laws, but Ogoola questioned whether that would satisfy the ICC.

¶8. (SBU) Court resources to hold a trial that meets international standards will be another problem, according to Ogoola. Ugandan judges were competent to oversee the cases,

but the judicial institutions would require an infusion of resources. A trial for Kony and the two other ICC indictees could last ten years each. He based his assessment on the standards set at the Arusha trials for Rwanda. Uganda would probably try the three ICC indictees simultaneously, according to Ogoola. He suggested that if a bench of three judges would hear Kony's trial, then that would require five judges in terms of manpower to ensure illnesses and other commitments did not interfere with the trials. In addition, he expected that some of the judges would rotate to know what was going on in the other trials. Ogoola said that a court building to try Kony should be built in northern Uganda. High profile cases, such as opposition leader Kizza Besigye's, attracted large, sometimes violent crowds, and brought Kampala to a standstill every time he appeared at court. Ogoola speculated that crowd control and security would be a huge problem due to the nature of the case.

19. (SBU) A fair trial for the LRA leaders would require a department to support the defense lawyers and prosecution, according to Ogoola. He said it would take years for the GOU to collect information and build its case. The sheer number of victims and witnesses would easily overwhelm the trial process. Ogoola expressed concern that some victims would not get justice. Others would need witness protection. None of these problems were insurmountable, according to Ogoola, but would require a significant infusion of resources.

19. (SBU) Even if Kony did not sign the agreement, Ogoola speculated that there could be hundreds of cases brought to the legal system in northern Uganda by families affected by LRA activities. He also said that rehabilitating the justice system posed a serious challenge to the Government's plans for development, economic recovery, and reconciliation in the north. The courts had stopped functioning during the conflict, but the police continued rresting people. The prisons and jails were holding three-to-four times their capacity, which has led to serious allegations of human rights abuses. Ogoola said his two-week circuit riding stint in northern Ugandan courts resulted in the freeing of 150 to 200 people from prison per district. Five other judges also went to the north on circuit rides to decongest the court backlogs and prisons, with about 200 people let out of prison by each judge. (Note: Most of the people in prison are charged and awaiting trial, not yet sentenced. End Note.) Nonetheless, he said that additional sessions would be needed throughout 2008 to relieve the enormous backlog and help get the court system ready to absorb new cases that could come with the end to the conflict.

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COMMENT

KAMPALA 00000587 003.2 OF 003

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110. (SBU) The LRA and Government negotiating teams expect the meetings on accountability options for Kony to be limited to those who can explain the legal and traditional justice systems. We understand that Riek Machar had wanted a separate meeting with the elusive LRA leader, but may be hoping that he can see Kony when he meets his team on May 10. Machar's request to ConGen Juba to have international observers present could become problematic given the nature of the proposed meeting. We will follow up with Rugunda and Oryem after they reach out to Machar.
BROWNING